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FISCAL IMPACT STATEMENT

LS 6158

BILL NUMBER: SB 6

NOTE PREPARED: Mar 25, 2006

BILL AMENDED: Mar 14, 2006

SUBJECT: Lifetime Parole for Child Molesters.

FIRST AUTHOR: Sen. Steele

FIRST SPONSOR: Rep. Ulmer

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Lifetime Parole and GPS Monitoring – It provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. It requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device.

Additional Restrictions on Offenders with Lifetime Parole – It provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction.

Sexually Violent Predators from Other States Transferred to Indiana – It specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also be required to be placed on lifetime parole.

Sexually Violent Offenders on Lifetime Parole Supervised by Probation Department – It provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board. It prohibits a sexually violent predator from obtaining a waiver for certain residency restrictions imposed as part of probation or parole.

Department of Correction – It requires the Department of Correction to report to the Budget Committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender. It requires the Department of Correction to report annually to the Legislative Council concerning the Department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency.

Sentencing Policy Study Committee – It requires the Sentencing Policy Study Committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (3) a classification system for sex offenders; (4) recidivism; and (5) treatment. And it adds a psychiatrist or psychologist to the Sentencing Policy Study Committee as a nonvoting advisor.

Effective Date: Upon Passage; July 1, 2006.

Explanation of State Expenditures: *Sex Offenders and Sexually Violent Predators* – The most fiscally significant provision of this bill is requiring sexually violent predators to be on lifetime parole with GPS monitoring.

Under current law, a court is required to consult with two board-certified psychologists or psychiatrists and then determine whether the defendant in a sex crime is a sexually violent predator. Sex crimes include the following:

- Rape or criminal deviate conduct
- Child molesting
- Child exploitation
- Vicarious sex gratification
- Sexual conduct in the presence of a minor
- Child solicitation
- Child seduction
- Sexual misconduct with a minor
- Incest
- Sexual battery
- Kidnapping of person younger than 18
- Criminal confinement of person less than 18
- Possession of child pornography
- Attempt, conspiracy, related offenses in other jurisdictions

Little or no information is available at the state level about the current number of offenders who have been determined by the courts to be sexually violent predators under IC 35-38-1-7.5. DOC estimates that fewer than 50 are currently either in DOC facilities or have been released and that roughly two offenders are determined to be sexually violent predators in any given year.

The added costs for monitoring these offenders with GPS equipment will begin in FY 2008 when Class D felons who were committed in 2007 will be released and could continue increasing over the next 20 to 30 years. The specific costs will depend on the organizational and technological advances that can be made as more offenders are released and need to be monitored.

Background on Supervision of Sex Offenders -- By law, sex offenders must serve a minimum sentence in a DOC facility. IC 35-50-2-2(d) allows a court to sentence the sex offender for a minimum term and, upon

release, place the offender on probation for not more than 10 years. If the offender is given a full sentence with no early release on probation, the offender may earn time cuts for good behavior and for earning educational degrees and vocational certificates.

IC 35-50-6-1(d) requires an offender who is released early because of accrued credit time to be placed on parole for a maximum of 10 years upon release. Offenders can also be released into a community transition program operated by a probation department or community corrections program (CTP). Community transition assignments are usually short term compared to probation or parole assignments. Some offenders serve their entire sentences without early release because they earned no credit time.

Offenders sentenced as sexually violent predators and placed on parole for the remainder of their lives will be required to wear a monitoring device that can transmit information about the offender's precise location 24 hours per day. This bill also permits other sex offenders who are not sexually violent predators to wear monitoring devices upon the discretion of the parole board.

The offender sentenced as a sexually violent predator may be placed on probation if the parole board determines the other supervising authority will be at least as stringent and effective as supervision by the parole board. Since offenders on parole are required to have these monitoring devices, it is assumed offenders on probation will also need to be using global positioning systems as well. Consequently, this bill would mandate probation departments to use global position monitoring if the offender sentenced as a sexually violent predator is placed on probation.

The potential impact on sentencing patterns is currently indeterminable. On average between 2000 and 2004, 60% of all offenders who were sentenced for a sex crime were released on parole and discharged after serving a full sentence or released to a community transition program, while 40% were released on probation. Under this bill, offenders who are released on parole or discharged after serving their entire sentences will be on parole and require GPS monitoring for the rest of their lives unless the court decides that the offender should no longer be considered a sexually violent predator. It is not clear whether courts who give offenders split sentences for sex offenses where an offender is determined to be a sexually violent predator will continue to do so if they are required to use global position monitoring.

Potential Costs are Difficult to Predict – Predicting the future costs of providing these offenders with GPS monitoring and lifetime parole supervision is difficult due to changes in technology and organizational arrangements. The cost of GPS monitoring has decreased rapidly in the past five years. The costs of actual staff monitoring may depend on the arrangements that the Department of Correction makes with local probation and community correction programs.

GPS Costs – The immediate effect of this bill will result in increased parole supervision costs as sexually violent predators are released from DOC and required to wear a monitoring device. Since this bill only applies to crimes committed after June 30, 2006, the earliest that this bill could affect the Department of Correction would be in FY 2008 because Class D felons have an average length of stay of one year.

Projected Costs for Lifetime Parole – Both the staff costs for supervising offenders on parole and offenders who return to DOC because of parole violations could increase costs to DOC. Supervisory costs can take one of two forms for DOC. DOC may increase the number of parole officers to supervise these offenders or contract with probation or community corrections agencies to provide the supervision. If parole staff is increased to supervise more offenders, more staff would likely be needed beginning in 2018 when offenders who were released from DOC in 2008 finish their 10-year maximum period on parole that they are required to serve

under current law and begin the lifetime parole added by this bill. Currently, eight district offices have 91 parole officers and 36 other employees, including substance abuse counselors and support staff. The average annual parole population as of November 2005 was 8,144. Based on these statistics, the average number of offenders per parole officer is 90.

Minimum Time on Sex Offender Registry -- Under current law, sex offenders must register for a minimum of ten years while sexually violent predators are required to register for life (IC 5-2-12-13). If more sex offenders are required to register for life instead of ten years, more offenders are likely to intentionally fail to register. Offenders who knowingly or intentionally fail to register or to complete and submit a new registration form commit a Class D felony on a first offense and a Class C felony as a second offense (IC 5-2-12-9).

In CY 2004, 23 persons in 13 counties were committed to DOC facilities as Class D felons for not registering as a sex offender as a first-time offense.

Sentencing Policy Study Committee – The bill also adds a series of topics for the Sentencing Policy Study Committee to examine and requires that one board-certified psychologist or psychiatrist appointed by the Governor act as a nonvoting member of the Committee. The Sentencing Policy Study Committee currently consists of 19 members.

Reports to Budget Committee and Legislative Council – The bill requires the DOC to report to the Budget Committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender and provide annual reports to the Legislative Council. DOC should be able to provide this information within the existing level of resources.

Explanation of State Revenues: *Violation of Lifetime Parole:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C and Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Monitoring of Sexually Violent Predators on Probation* – A portion of the costs associated with these systems can be offset from user fees collected from offenders on parole.

Violation of Lifetime Parole: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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